

FILED
BOARD OF PHYSICAL THERAPY

JUL 14 2009

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHYSICAL THERAPY
EXAMINERS

IN THE MATTER OF THE
SUSPENSION OR REVOCATION OF
THE LICENSE OF

THOMAS CHARLES, P.T.
LICENSE NO.40QA00125200

TO PRACTICE PHYSICAL THERAPY
IN THE STATE OF NEW JERSEY

Administrative Action

FINAL ORDER
OF DISCIPLINE

This matter came before the New Jersey State Board of Physical Therapy Examiners upon information that the respondent has failed to complete a total of thirty (30) credits of continuing education in approved physical therapy courses during the period of February 1, 2006 through January 31, 2008, as required for the 2008-2010 biennial license renewal pursuant to N.J.S.A. 45:9-37.18 (a) 10 and N.J.A.C. 13:39A-9.1 et. seq. Based upon information received and which the Board has reviewed, the following preliminary findings are made:

FINDINGS OF FACT

1. Respondent is a physical therapist in the State of New Jersey and has been a licensee at all times relevant hereto.
2. On December 10, 2007 the respondent submitted his completed application for

renewal of license as a physical therapist in the State of New Jersey.

3. On April 25, 2008, the Board of Physical Therapy Examiners initiated a random audit of renewal applications for the 2008-2010 period, asking licensees to submit proof with regard to the satisfaction of continuing education requirements for the biennial renewal period, i.e., thirty (30) credit approved hours. The audit letter was sent by certified mail, return receipt requested, to the respondent's address of record and was received by the respondent on May 5, 2008.

4. Respondent submitted correspondence to the Board received on May 12, 2008 in response to the Board's audit requesting that the Board accept the courses that he completed for his volunteer fireman training as his continuing education credits for the renewal of the license to practice physical therapy. Upon review of the continuing education tracking form the Board accepted two (2) credits for the New Jersey State Board Statute and Regulation course and two (2) credits for the CPR course. The remaining courses, including Introduction to Incident Command, National Management System, Basic Incident Command System, Fire Fighter I, Fire fighter Extinguisher Training, Driver Training and Incident Management System I 300, were denied as they do not pertain to the practice of physical therapy.

CONCLUSION OF LAW

Respondent has not satisfied the requirements of N.J.S.A. 45:9-37.18 (a) 10 and N.J.A.C. 13:39A-9.1 et. seq. with regard to the completion of the appropriate number of approved continuing education credit hours and is therefore subject to sanctions pursuant

to N.J.S.A. 45:1-21(h), failure to comply with the provisions of an act or regulation administered by the Board, which constitutes grounds for suspension or revocation of any certificate, registration or license, and grounds for sanction pursuant to N.J.S.A. 45:1-25.

DISCUSSION

Based upon the foregoing findings and conclusions, a Provisional Order of Discipline requiring respondent to pay a civil penalty of one thousand dollars (\$1,000.00) for violation of the above regulations was issued on April 17, 2009, and a copy was served on and received by the respondent. The Provisional Order also stated that respondent's license would be suspended by Final Order in the event that respondent failed to submit proof of having completed the outstanding twenty-six (26) hours of continuing education credits within thirty (30) days of the Final Order. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth (30th) business day following entry unless respondent requested a modification or dismissal of the stated Finding of Fact and Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

In correspondence received by the Board on May 6, 2009, the respondent requested a modification or dismissal of said findings and conclusions, and alternatively requested elimination or reduction of the one thousand dollar (\$1,000.00) civil penalty. Respondent referred the Board to his letter of November 28, 2008, for reasons supporting

his request for modification or dismissal. The respondent included all certificates of completion for the courses he attended, and stated that one twenty-four (24) contact hour course was taken at Sussex County College and that another was completed at the Morris County Fire Academy. In his alternative request for elimination or modification of the civil penalty, respondent explained that he retired in January 2009 and that his retirement income has been greatly impacted due to the weakened economy.

Respondent's submissions were reviewed by the Board, and the Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The credits for continuing education must be obtained biennially by each holder of an active license during the period preceding the established license renewal date as required by N.J.S.A. 45:9-37.18 (a) 10. Thus, the respondent must have completed his thirty (30) credits by January 31, 2008. The Board determined that the respondent failed to submit proof of additional credits on a timely basis as the proofs presented indicated that respondent did not satisfy the total amount of the continuing education credits within the preceding license renewal period as only four (4) credits were obtained within the renewal period. The additional correspondence submitted by the respondent did not contain proofs indicating that the credits from courses related to Fire Fighting count towards the continuing education requirement, as these courses were not related to the practice of physical therapy as put forth in N.J.A.C. 13:39A 9.3 (a). In order to determine whether the courses that respondent submitted on audit qualify for continuing education credits as they were not pre-approved courses, the respondent had to submit copies of the course outlines and the curriculum vitae of the course lecturer(s) as required by N.J.A.C. 13:39A-9.4(e) and 13:39A-9.6. The Board determined that there are sufficient mitigating circumstances

to permit the respondent to remit payment of the one thousand dollar (\$1,000.00) civil penalty by installments over ten months in the amount of one hundred (\$100.00) dollars per month.

THEREFORE, IT IS ON THIS 14th **DAY OF** July, 2009,
ORDERED:

1. Respondent shall pay a civil penalty of one thousand dollars (\$1,000.00), in ten equal installments of one hundred dollars (\$100.00) per month, pursuant to N.J.S.A. 45:1-25 for violation of N.J.S.A. 45:9-37.18 (a) 10, N.J.A.C. 13:39A-9.1 et. seq. and N.J.S.A. 45:1-21(h) as evidenced by your failure to satisfy the continuing education requirements.

Payment is to be remitted by means of a certified check or money order, payable to the New Jersey State Board of Physical Therapy Examiners. Such payment is to be sent to the Board of Physical Therapy Examiners, attention Lisa Affinito, Executive Director, at 124 Halsey Street, Sixth Floor, Post Office Box 45014, Newark, New Jersey 07101, the first installment payment is due no later than thirty (30) days from the date that the within Order is finalized.

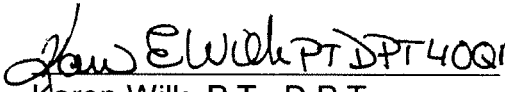
2. Respondent must submit proof of having completed the twenty six (26) hours of continuing education credits within thirty (30) days of the date of the receipt of the Final Order. **These continuing education credits are NOT to be used to renew respondent's license for the 2010-2012 renewal period.**

3. In the event that respondent fails to present the proofs as required by paragraph #2, by the date provided, the license of respondent shall be suspended, by operation of the Final Order, and shall remain suspended until respondent submits proof that he has fully

complied with all continuing education requirements.

4. In the event that respondent's submissions establish a need for further proceedings, including, but not limited to, an evidentiary hearing, respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, and upon review of the record, the Board shall not be limited to the findings of facts and conclusions of law and sanctions herein.

NEW JERSEY STATE BOARD
OF PHYSICAL THERAPY EXAMINERS

By:  PT DPT 400A00560100
Karen Wilk, P.T., D.P.T.
Chair